

REMARKS

Status of the Claims

Claims 1-14 are pending in this application. Claim 1, 3-14 have been amended to remove improper multiple dependencies and to place the claims into a format which is compliant with the U.S. standard claim format. No new matter has been added.

Response to Restriction Requirement

The Examiner has required restriction between the claims of Group I (claims 1-11) and the claims of Group II (claims 12-14). This requirement is respectfully traversed. Reconsideration and withdrawal thereof are requested.

The Examiner asserts that the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1. Applicants submit, however, that the Examiner has not properly construed or applied the unity of invention standard applicable under PCT Rule 13.

Under Rule 13.2, the application fulfills the unity of invention requirement when there is “a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution within each of the claimed inventions, considered as a whole, makes over the prior art.” In the present case, the Examiner’s only reason for asserting a lack of unity of invention is the Examiner’s allegation that U.S. Patent 6,267,958 “anticipates the claimed formulation” and, therefore, the claimed inventions do not contribute a special technical feature when viewed over the prior art. However, the ‘958 patent corresponds to WO 97/04801 which was cited by the International Examiner and over which the claims in the application were found to be both novel and inventive. Moreover, the International Examiner did not object to unity of invention.

Applicants submit that the actions of the International Examiner during the International Phase of this application, which also applies the unity of invention standard of PCT Rule 13, clearly shows that the present application complies with the unity of invention standard under Rule 13. The Examiner is reminded that an International application which complies with those unity of invention requirements must then be accepted by all of the designated and elected offices, including the USPTO, since article 27 (1) of the Patent Cooperation Treaty does not permit any national law or any national office to require compliance with different regulations relating to the contents of the International Application. Thus, the U.S. application must be examined for unity of invention consistent with the Patent Cooperation Treaty. This consistency means an actual consistent application of the unity of invention standard, not mere verbal assent to the PCT Rule. See *Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks*, 231 USPQ 590 (E.D.VA. 1986).

For the above reasons, Applicants request that the restriction requirement be withdrawn in its entirety and that all of the claims in this application be examined together.

In order to be fully responsive to the Office Action, Applicants elect, with traverse, should the Examiner persist in the requirement, to prosecute the claims of Group I, namely claims 1-11.

Favorable action and early allowance of all the claims are requested.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$120.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson, Registration No 30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No.: 10/552,314

Docket No.: 0040-0158PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: September 8, 2008

Respectfully submitted,

By 

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